

## **RULE 65.2**

### **BONDS AND SECURITY**

#### **(a) Approval by Clerk**

The Clerk is authorized to approve the form of, and the sureties on, all bonds and undertakings required in any proceeding in this Court and approve any other security offered in lieu of sureties as provided by law; but the Clerk's action may be suspended or altered or rescinded by the Court upon cause shown.

#### **(b) Court Officers as Sureties**

No Clerk, Marshal, member of the bar, or other officer or employee of this Court may act as surety or guarantor of any bond or undertaking in any proceeding in this Court. An attorney who is not representing any party in the case or any related action and wishes to act as surety in an individual capacity as a relative or close friend of a party to a proceeding in this Court must first obtain permission from the Court.

#### **(c) Non-Resident Bond**

Except in actions in admiralty where security for costs has been given, a plaintiff not domiciled in Puerto Rico or which is a foreign corporation may, upon motion by the defendant, be required to post a bond to secure the costs, expenses, and attorneys' fees which may be awarded against them. The Court will set the amount of the bond and may stay the proceedings until its payment or, upon good cause shown, dispense with the requirement. Plaintiff must deposit the set amount with the Clerk within sixty (60) days of the Court's order; failure to post bond within the required time frame may entail dismissal of the action.

#### **(d) Supersedeas Bond**

A supersedeas bond staying execution of a money judgment shall be in the amount of the judgment plus interest at a rate consistent with 28 U.S.C. § 1961(a), plus an amount to be set by the Court to cover costs and any award of damages for delay. The parties may waive the supersedeas bond by stipulation without order of the Court.

#### **(e) Form of Bond**

Surety bonds shall be signed and acknowledged by the party and surety or sureties. They shall refer to the statute, rule, or Court order under which they are given, state the conditions of the obligation, and contain a provision expressly subjecting them to all applicable federal statutes and rules.

#### **(f) Security**

Except as otherwise provided by law or by order of the Court, a bond or similar undertaking must be secured by:

- (1) Deposit of Cash or Obligations - deposits of cash or obligations of the United States of a type acceptable as collateral to the Treasury Department of the

United States under 31 C.F.R. § 225 in the amount of the bond, including certified checks payable to the “Clerk U.S. District Court” issued within five (5) days of deposit with the Clerk; or

- (2) Guaranty of a Company or Corporation - guaranty of a company or corporation holding a certificate of authority to act as surety from the Commonwealth of Puerto Rico, and from the Secretary of the Treasury Department of the United States pursuant to 31 U.S.C. §§ 9304, et seq.; or
- (3) Guaranty of the Owner of Unencumbered Real Estate or Personal Property - guaranty of an individual resident of this district who owns unencumbered real or personal property within the United States worth the amount of the bond in excess of legal obligations or exemptions. Property owned jointly is acceptable provided all joint owners execute the bond; where an estate is the owner, all heirs must execute the bond. The Clerk is not bound to accept as guarantee for bond properties having two or more mortgages. In addition, the following documents must be deposited with the Clerk when real estate property is submitted as surety:
  - (A) the original of any outstanding bearer note to which the property is subject to;
  - (B) certified copy of the deed of sale;
  - (C) lender’s mortgage balance certificate;
  - (D) property tax certification from appropriate agency (the Puerto Rico Treasury Department and/or the Municipal Tax Collecting Agency [“Centro de Recaudación de Impuestos Municipales” or “CRIM”] for property within the district of Puerto Rico);
  - (E) certification from the Registry of the Property or duly authorized municipal office;
  - (F) original property appraisal by a licensed appraiser;
  - (G) certified copy of judicial Declaration of Heirs.

**(g) Modification of Bond**

The Court, on its own initiative or on motion of a party, may alter the amount or terms of a bond or similar undertaking at any time as justice requires.

**(h) Further Security**

The Court, on its own initiative or on motion of a party, may order a party to furnish further or different security or require personal sureties to furnish further justification.

**(i) Execution of Bond and Deposit of Deed**

When real estate is posted as security for a bond or pledged as a condition of bail in a criminal case, a certified copy of the deed shall be deposited with the Clerk.

**(j) Discharge**

Upon satisfaction of the condition of the bond or similar undertaking, the monies or obligations shall be returned to the owner by order of the Court.